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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Parts 1, 2, and 3

[Docket No. APHIS-2020-0068]

RIN 0579-AE61

Standards for Birds Not Bred for Use in Research Under the Animal Welfare Act;

Correction

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule; correction.

SUMMARY: The Animal and Plant Health Inspection Service is correcting a final rule that was published in the *Federal Register* on February 21, 2023. The rule established standards governing the humane handling, care, treatment, and transportation of birds, excluding birds bred for use in research, covered under the Animal Welfare Act. The final rule erroneously omitted a word from one paragraph in the amendatory text and included an inaccurate phrase in another paragraph of the amendatory text. This document corrects these errors and amends the regulations to add the appropriate wording.

DATES: This correction is effective March 23, 2023.

FOR FURTHER INFORMATION CONTACT: Dr. Cody M. Yager, DVM, MPH, Avian Specialist, Animal Care, APHIS, 4700 River Road Unit 84, Riverdale, MD 20737; cody.m.yager@usda.gov; (970) 494-7478.

SUPPLEMENTARY INFORMATION: On February 21, 2023, we published a final rule (88 FR 10654-10721)¹ that will be effective on March 23, 2023, and that established standards in 9 CFR part 3 to govern the humane handling, care, treatment, and transportation of birds, excluding birds bred for use in research, covered under the Animal Welfare Act (AWA). We also revised the already existing AWA regulations in parts 1 and 2 as appropriate to include birds.

The amendatory instruction to the Office of the Federal Register for the revision to § 2.1 included an instruction to add two sentences to the end of paragraph (a)(3)(iii). These sentences constitute a new licensing exemption, specific to birds, with exemption thresholds based on the number and size of birds sold annually.

For reasons we explain on page 10672 in the preamble to the final rule, our intention is that the regulatory exemption threshold is to be based on the number of birds sold annually (i.e., per calendar year). However, we inadvertently omitted the word “annually” in paragraph (a)(3)(iii) of the regulatory text in the four instances where we intended it to occur.

We therefore consider it necessary to add the word “annually” to § 2.1(a)(3)(iii) in four locations to indicate our intention in the regulatory text.

In addition, the amendatory instruction we provided to the Office of the Federal Register for revising § 3.161(g) included language stating that carriers and intermediate handlers must not accept unweaned birds for transport unless an attending veterinarian finds that such transportation is necessary for veterinary care. However, on page 10703 in the preamble to the final rule, we stated that we are amending proposed § 3.161(g) to indicate that carriers and intermediate handlers must not accept unweaned birds for transport unless instructions for conditions of transport to ensure the health and well-being of the birds are specified and written by the attending veterinarian, and signed within 10 days of shipment. We also stated that these

¹ To view the final rule, go to <http://www.regulations.gov> and enter APHIS-2020-0068 in the Search field.

instructions are intended to ensure that temperature, handling, and other conditions of transport are not detrimental to the health and well-being of the birds in accordance with the Act. Our intention is to allow unweaned birds to be accepted for transport as long as the instructions for conditions of transport ensure the health and well-being of the birds. We did not intend that veterinary care be the sole authorized reason for transporting unweaned birds.

To correct the amendatory text with the intended meaning explained in the preamble, we therefore consider it necessary to remove the words “an attending veterinarian finds that such transportation is necessary for veterinary care, and transport instructions” in § 3.161(g) and replace them with the words “transport instructions to ensure the health and well-being of the birds”.

Accordingly, this rule corrects the inadvertent omission and inaccurate phrase.

Corrections

In FR Doc. 2023-03357 appearing on page 10713 in the *Federal Register* of Wednesday, February 22, 2023, the following corrections are made:

§ 2.1 [Corrected]

1. On page 10713, in the first column in § 2.1, in paragraph (a)(3)(iii), “* * *

Also exempt from licensing is any person who sells 200 or fewer pet birds 250 grams or less, and/or sells 8 or fewer pet birds more than 250 grams, determined by average adult weight of the species, which were born and raised on his or her premises, for pets or exhibition, and is not otherwise required to obtain a license. This exemption does not extend to any person residing in a household that collectively sells more than 200 pet birds 250 grams or less, and/or sells more than 8 pet birds more than 250 grams, regardless of ownership;” is corrected to read “* * *

Also exempt from licensing is any person who sells 200 or fewer pet birds 250 grams or less annually, and/or sells 8 or fewer pet birds more than 250 grams annually, determined by average adult weight of the species, which were born and raised on his or her premises, for pets or exhibition, and is not otherwise required to obtain a license. This exemption does not extend to

any person residing in a household that collectively sells more than 200 pet birds 250 grams or less annually, and/or sells more than 8 pet birds more than 250 grams annually, regardless of ownership;”

§ 3.161 [Corrected]

2. On page 10719, in the second column, in § 3.161, in paragraph (g), “Carriers and intermediate handlers must not accept unweaned birds for transport unless an attending veterinarian finds that such transportation is necessary for veterinary care, and transport instructions are specified and written by the attending veterinarian, and signed within 10 days of shipment.” is corrected to read “Carriers and intermediate handlers must not accept unweaned birds for transport unless transport instructions to ensure the health and well-being of the birds are specified and written by the attending veterinarian, and signed within 10 days of shipment.”

Done in Washington, DC, this 10th day of March 2023.

Michael Watson

Acting Administrator, Animal and Plant Health Inspection Service.

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